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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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10 TRUSTEES OF THE CONSTRUCTION
11 INDUSTRY AND LABORERS HEALTH
12 AND WELFARE TRUST, *et al.*,

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Plaintiffs,

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v.
15 CONCRETE CORING OF NEVADA,
16 INC., *et al.*,

17

Defendants.

Case No. 2:10-CV-01600-KJD-PAL

ORDER

Presently before the Court is Plaintiffs' Motion to Amend Judgment Against Concrete Coring (#20). Defendant Concrete Coring of Nevada filed a response in opposition (#24) to which Plaintiffs replied (#26). Also before the Court is Plaintiffs' Motion to Set a Briefing Schedule in Lieu of Joint Pre-Trial Order (#21). Defendant Old Republic filed a response (#25) to which Plaintiffs replied (#27).

Plaintiffs seek a judgment for attorneys' fees that they were unable to include in their motion for summary judgment, because they had not yet been incurred. Defendant Concrete Coring argues that Plaintiff's moved too late for an inclusion of attorneys' fees. However, though judgment had been entered against Concrete Coring based on the Court's granting of Plaintiffs' motion for

1 summary judgment, the entire action should not have been closed. Instead, the Clerk's Office
2 inadvertently closed the case, though Defendant Old Republic still remained in the action.
3 Furthermore, ERISA's non-discretionary fee shifting provision, 29 U.S.C. § 1132(g)(2) allows
4 attorney's fees incurred in post-judgment activities. See also, Plumbers' Pension F. v. Domas Mech.
5 Contractors, 778 F.2d 1266 (7th Cir. 1985). Accordingly, good cause being found, the Court awards
6 an additional judgment¹ of \$8,750.00. Furthermore, the Court grants the motion for a briefing
7 schedule on the remaining claim based on this award against Old Republic as surety. If the parties
8 are unable to resolve the remaining issues, Plaintiffs shall file their opening brief within thirty (30)
9 days of the entry of this order. Defendant Old Republic will file its reply brief within twenty-one
10 (21) days of Plaintiffs' opening brief, and Plaintiffs shall reply within seven (7) days.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Motion to Amend Judgment
12 Against Concrete Coring (#20) is **GRANTED**;

13 IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** in the amount
14 of \$8,750.00 for Plaintiffs and against Defendant Concrete Coring of Nevada, Inc.;

15 IT IS FURTHER ORDERED that Plaintiffs' Motion to Set a Briefing Schedule in Lieu of
16 Joint Pre-Trial Order (#21) is **GRANTED**;

17 IT IS FURTHER ORDERED that the Clerk of the Court re-open the action as to Defendant
18 Old Republic.

19 DATED this 16 day of July 2012.

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22 _____
23 Kent J. Dawson
24 United States District Judge

25 _____
26 ¹The Court recognizes that Defendant Concrete Coring has paid the full amount of the original judgment.